

REMARKS

The October 12, 2006, Office action states that the reply filed on August 1, 2006 “is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): the Applicant states that certain figures of the application were not included in the species that were established.”


Reconsideration and withdrawal of the request is sought because the undersigned submits that the original election of species was improper. The July 5, 2006 Office action identifies six different species and then requires an election between them “because each of the implants having a different surface type coating application results in different effects on how the body responds to these coatings.” This results based justification is improper because, even under the presumption that the results of each disclosed system will be different, these different systems will not result in a different field of search. Thus, the same fields and sub-fields of search must be searched for each claim. Consequently, there is no significant burden associated with searching each of the pending claims.

Nevertheless, and without waiving any argument, including those made in the August 1, 2006, reply, the undersigned elects species no. 1 and notes that claims 1-5, 7, 9-11, 13, 18, 21-22, 24, and 26-31 read on this species. The remaining claims, nos. 6, 8, 12, 14-17, 19-20, 23, and 24 may be withdrawn.

The examiner is invited to contact the undersigned should any other matters remain.

Respectfully submitted,
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